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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**
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10 FRANCK LE BOUTEILLER,

11 Plaintiff,

12 v.

13 COUNTRYWIDE KB HOMES, a
14 COUNTRYWIDE MORTGAGE, LLC
15 SERIES; BANK OF AMERICA HOME
LOANS; RECONTRUST COMPANY,
N.A., *et al.*,

16 Defendants.
17

Case No. 2:09-CV-01621-HDM-LRL

ORDER

18 Currently pending before the Court is Plaintiff Frank Le Bouteiller's ("Plaintiff") Motion to
19 Amend Complaint (#22). To date, no points or authorities have been filed in opposition to the
20 Motion to Amend. Also before the Court is Defendants Countrywide KB Homes, Bank of America
21 Home Loans, and Recontrust Company's ("Defendants") Motion to Dismiss (#7). Plaintiff filed a
22 Response (#14) to the Motion to Dismiss, to which Defendants filed a Reply (#18).

23 Rule 15(a)(2) provides that "[t]he court should freely give leave [to amend] when justice so
24 requires," and when there is no "undue delay, bad faith[,] dilatory motive on the part of the movant
25 . . . undue prejudice to the opposing party by virtue of . . . the amendment, [or] futility." Fed. R. Civ.
26 P. 15(a); Foman v. Davis, 371 U.S. 178, 182, 222 (1962). Generally, leave to amend is only denied

1 when it is clear that the deficiencies of the complaint cannot be cured by amendment. See DeSoto v.
2 Yellow Freight Sys., Inc., 957 F.2d 655, 658 (9th Cir. 1992). As stated above, Defendants have
3 failed to file any points or authorities in opposition to Plaintiff's Motion to Amend as allowed by
4 LR 7-2(d). LR 7-2(d) provides that "failure of an opposing party to file points and authorities in
5 response to any motion shall constitute a consent to the granting of the motion." LR 7-2(d).

6 Accordingly, Plaintiff's Motion to Amend is granted pursuant to Fed. R. Civ. P. 15, and LR
7 7-2(d). Additionally, because Defendants' Motion to Dismiss (#7) is based on the allegations of the
8 original Complaint, said Motion is denied as moot.¹

9 Accordingly, **IT IS HEREBY ORDERED** that Plaintiff's Motion to Amend Complaint
10 (#22) is **GRANTED**;

11 **IT IS FURTHER ORDERED** that Defendants' Motion to Dismiss (#7) is **DENIED** as
12 moot.

13 DATED this 7th day of June 2010.

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17 Kent J. Dawson
18 United States District Judge
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26 ¹ In granting Plaintiff's Motion to Amend, the Court offers no comment as to whether Plaintiff's amended claims
are sufficient to withstand dismissal or summary judgment.